

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED TRANSPORTATION UNION,
CARMEN J. FAMULARE,

Plaintiffs,

-v.-

1:06-CV-0503
(LEK/RFT)

NATIONAL RAILROAD PASSENGER
CORPORATION (“AMTRAK”),

Defendant.

MEMORANDUM-DECISION AND ORDER¹

Currently before the Court is a Motion for stay pending appeal, filed by Defendant National Railroad Passenger Corporation (“Amtrak”). Dkt. No. 25.

On February 2, 2008, this Court granted the Motion for summary judgment filed by Plaintiffs United Transportation Union and Carmen Famulare and directed Defendant to act reasonably to restore Plaintiff Famulare to his position of employment. Memorandum-Decision and Order (Dkt. No. 22).

I. Discussion

Several factors are relevant when considering whether an order should be stayed pending appeal: if the appeal raises substantial issues, if the applicant will be irreparably injured absent a stay, if the other parties will be substantially injured by issuance of a stay, and the public interest involved. See In re World Trade Center Disaster Site Litig., 503 F.3d 167, 170 (2d Cir. 2007); Hirschfeld v. Bd. of Elections, 984 F.2d 35, 39 (2d Cir. 1993).

¹ For printed publication by the Federal Reporters.

These factors weigh in favor of staying the Memorandum-Decision and Order pending resolution of the appeal. Although the Court does not believe that Amtrak is likely to succeed on the merits of the appeal, the issues involved are of substantial import to the parties and the public at large and the law in this area is far from certain. Additionally, while any injury suffered by Plaintiffs by virtue of a stay would be remediable by money damages, the potential injury to Amtrak absent a stay would be irreparable.

For the foregoing reasons, Defendant's Motion for a stay pending appeal will be granted.

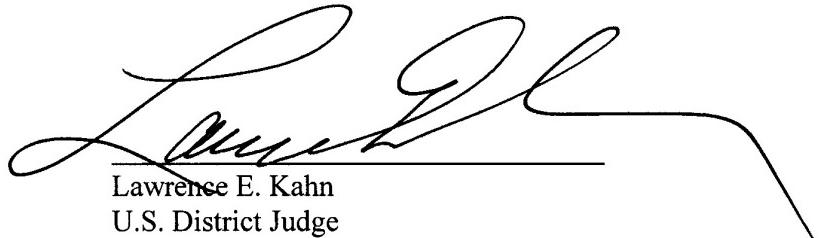
II. Conclusion

Based on the foregoing discussion, it is hereby

ORDERED, that Defendant's Motion for a stay pending appeal (Dkt. No. 25) is
GRANTED except to the extent that it sought a show cause hearing; and it is further
ORDERED, that the Clerk serve a copy of this Order on the parties.

IT IS SO ORDERED.

DATED: February 15, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge